

ASSEMBLY BILL

No. 1511

Introduced by Assembly Member Beth Gaines

January 14, 2014

An act to amend Sections 11105 and 13300 of the Penal Code, relating to criminal history information.

LEGISLATIVE COUNSEL'S DIGEST

AB 1511, as introduced, Beth Gaines. Criminal history information: animal control officers.

Existing law requires the Department of Justice to maintain state summary criminal history information, including the identification and criminal history of any person, such as his or her name, date of birth, physical description, fingerprints, photographs, dates of arrest, arresting agencies and booking numbers, charges, dispositions, and similar data about the person. Existing law requires the department to furnish this information in response to a request from certain authorized agencies, organizations, or individuals that need the information to fulfill employment, certification, or licensing duties, including in response to a request from a humane officer.

Existing law similarly establishes procedures for the disclosure of local summary criminal history information by a local criminal justice agency for certain purposes, as specified.

This bill would require the Department of Justice and local criminal justice agencies to provide state and local summary criminal history information to an animal control officer for the purposes of performing his or her duties. The bill would permit a local agency to charge a reasonable fee sufficient to cover the costs of providing that information.

By requiring local criminal justice agencies to provide this information, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 11105 of the Penal Code is amended to
2 read:

3 11105. (a) (1) The Department of Justice shall maintain state
4 summary criminal history information.

5 (2) As used in this section:

6 (A) "State summary criminal history information" means the
7 master record of information compiled by the Attorney General
8 pertaining to the identification and criminal history of any person,
9 such as name, date of birth, physical description, fingerprints,
10 photographs, dates of arrests, arresting agencies and booking
11 numbers, charges, dispositions, and similar data about the person.

12 (B) "State summary criminal history information" does not refer
13 to records and data compiled by criminal justice agencies other
14 than the Attorney General, nor does it refer to records of complaints
15 to or investigations conducted by, or records of intelligence
16 information or security procedures of, the office of the Attorney
17 General and the Department of Justice.

18 (b) The Attorney General shall furnish state summary criminal
19 history information to any of the following, if needed in the course
20 of their duties, provided that when information is furnished to
21 assist an agency, officer, or official of state or local government,
22 a public utility, or any other entity, in fulfilling employment,
23 certification, or licensing duties, Chapter 1321 of the Statutes of
24 1974 and Section 432.7 of the Labor Code shall apply:

25 (1) The courts of the state.

26 (2) Peace officers of the state, as defined in Section 830.1,
27 subdivisions (a) and (e) of Section 830.2, subdivision (a) of Section

1 830.3, subdivisions (a) and (b) of Section 830.5, and subdivision
2 (a) of Section 830.31.

3 (3) District attorneys of the state.

4 (4) Prosecuting city attorneys of any city within the state.

5 (5) City attorneys pursuing civil gang injunctions pursuant to
6 Section 186.22a, or drug abatement actions pursuant to Section
7 3479 or 3480 of the Civil Code, or Section 11571 of the Health
8 and Safety Code.

9 (6) Probation officers of the state.

10 (7) Parole officers of the state.

11 (8) A public defender or attorney of record when representing
12 a person in proceedings upon a petition for a certificate of
13 rehabilitation and pardon pursuant to Section 4852.08.

14 (9) A public defender or attorney of record when representing
15 a person in a criminal case, or a parole, mandatory supervision
16 pursuant to paragraph (5) of subdivision (h) of Section 1170, or
17 postrelease community supervision revocation or revocation
18 extension proceeding, and if authorized access by statutory or
19 decisional law.

20 (10) Any agency, officer, or official of the state if the criminal
21 history information is required to implement a statute or regulation
22 that expressly refers to specific criminal conduct applicable to the
23 subject person of the state summary criminal history information,
24 and contains requirements or exclusions, or both, expressly based
25 upon that specified criminal conduct. The agency, officer, or
26 official of the state authorized by this paragraph to receive state
27 summary criminal history information may also transmit fingerprint
28 images and related information to the Department of Justice to be
29 transmitted to the Federal Bureau of Investigation.

30 (11) Any city or county, city and county, district, or any officer
31 or official thereof if access is needed in order to assist that agency,
32 officer, or official in fulfilling employment, certification, or
33 licensing duties, and if the access is specifically authorized by the
34 city council, board of supervisors, or governing board of the city,
35 county, or district if the criminal history information is required
36 to implement a statute, ordinance, or regulation that expressly
37 refers to specific criminal conduct applicable to the subject person
38 of the state summary criminal history information, and contains
39 requirements or exclusions, or both, expressly based upon that
40 specified criminal conduct. The city or county, city and county,

1 district, or the officer or official thereof authorized by this
2 paragraph may also transmit fingerprint images and related
3 information to the Department of Justice to be transmitted to the
4 Federal Bureau of Investigation.

5 (12) The subject of the state summary criminal history
6 information under procedures established under Article 5
7 (commencing with Section 11120).

8 (13) Any person or entity when access is expressly authorized
9 by statute if the criminal history information is required to
10 implement a statute or regulation that expressly refers to specific
11 criminal conduct applicable to the subject person of the state
12 summary criminal history information, and contains requirements
13 or exclusions, or both, expressly based upon that specified criminal
14 conduct.

15 (14) Health officers of a city, county, city and county, or district
16 when in the performance of their official duties enforcing Section
17 120175 of the Health and Safety Code.

18 (15) Any managing or supervising correctional officer of a
19 county jail or other county correctional facility.

20 (16) Any humane society, or society for the prevention of cruelty
21 to animals, for the specific purpose of complying with Section
22 14502 of the Corporations Code for the appointment of humane
23 officers.

24 (17) Local child support agencies established by Section 17304
25 of the Family Code. When a local child support agency closes a
26 support enforcement case containing summary criminal history
27 information, the agency shall delete or purge from the file and
28 destroy any documents or information concerning or arising from
29 offenses for or of which the parent has been arrested, charged, or
30 convicted, other than for offenses related to the parent's having
31 failed to provide support for minor children, consistent with the
32 requirements of Section 17531 of the Family Code.

33 (18) County child welfare agency personnel who have been
34 delegated the authority of county probation officers to access state
35 summary criminal history information pursuant to Section 272 of
36 the Welfare and Institutions Code for the purposes specified in
37 Section 16504.5 of the Welfare and Institutions Code. Information
38 from criminal history records provided pursuant to this subdivision
39 shall not be used for any purposes other than those specified in
40 this section and Section 16504.5 of the Welfare and Institutions

Code. When an agency obtains records obtained both on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check.

(19) The court of a tribe, or court of a consortium of tribes, that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code. This information may be used only for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. Article 6 (commencing with Section 11140) shall apply to officers, members, and employees of a tribal court receiving criminal record offender information pursuant to this section.

(20) Child welfare agency personnel of a tribe or consortium of tribes that has entered into an agreement with the state pursuant to Section 10553.1 of the Welfare and Institutions Code and to whom the state has delegated duties under paragraph (2) of subdivision (a) of Section 272 of the Welfare and Institutions Code. The purposes for use of the information shall be for the purposes specified in Section 16504.5 of the Welfare and Institutions Code and for tribal approval or tribal licensing of foster care or adoptive homes. When an agency obtains records on the basis of name checks and fingerprint checks, final placement decisions shall be based only on the records obtained pursuant to the fingerprint check. Article 6 (commencing with Section 11140) shall apply to child welfare agency personnel receiving criminal record offender information pursuant to this section.

(21) An officer providing conservatorship investigations pursuant to Sections 5351, 5354, and 5356 of the Welfare and Institutions Code.

(22) A court investigator providing investigations or reviews in conservatorships pursuant to Section 1826, 1850, 1851, or 2250.6 of the Probate Code.

(23) A person authorized to conduct a guardianship investigation pursuant to Section 1513 of the Probate Code.

(24) A humane officer *officer appointed* pursuant to Section 14502 of the Corporations Code *Code of* for the purposes of performing his or her duties.

1 (25) A public agency described in subdivision (b) of Section
2 15975 of the Government Code, for the purpose of oversight and
3 enforcement policies with respect to its contracted providers.

4 (26) *An animal control officer, appointed pursuant to Section*
5 *830.9, for purposes of performing his or her official duties.*

6 (c) The Attorney General may furnish state summary criminal
7 history information and, when specifically authorized by this
8 subdivision, federal level criminal history information upon a
9 showing of a compelling need to any of the following, provided
10 that when information is furnished to assist an agency, officer, or
11 official of state or local government, a public utility, or any other
12 entity in fulfilling employment, certification, or licensing duties,
13 Chapter 1321 of the Statutes of 1974 and Section 432.7 of the
14 Labor Code shall apply:

15 (1) Any public utility, as defined in Section 216 of the Public
16 Utilities Code, that operates a nuclear energy facility when access
17 is needed in order to assist in employing persons to work at the
18 facility, provided that, if the Attorney General supplies the data,
19 he or she shall furnish a copy of the data to the person to whom
20 the data relates.

21 (2) To a peace officer of the state other than those included in
22 subdivision (b).

23 (3) To an illegal dumping enforcement officer as defined in
24 subdivision (j) of Section 830.7.

25 (4) To a peace officer of another country.

26 (5) To public officers, other than peace officers, of the United
27 States, other states, or possessions or territories of the United
28 States, provided that access to records similar to state summary
29 criminal history information is expressly authorized by a statute
30 of the United States, other states, or possessions or territories of
31 the United States if the information is needed for the performance
32 of their official duties.

33 (6) To any person when disclosure is requested by a probation,
34 parole, or peace officer with the consent of the subject of the state
35 summary criminal history information and for purposes of
36 furthering the rehabilitation of the subject.

37 (7) The courts of the United States, other states, or territories
38 or possessions of the United States.

39 (8) Peace officers of the United States, other states, or territories
40 or possessions of the United States.

1 (9) To any individual who is the subject of the record requested
2 if needed in conjunction with an application to enter the United
3 States or any foreign nation.

4 (10) (A) (i) Any public utility, as defined in Section 216 of the
5 Public Utilities Code, or any cable corporation as defined in
6 subparagraph (B), if receipt of criminal history information is
7 needed in order to assist in employing current or prospective
8 employees, contract employees, or subcontract employees who,
9 in the course of their employment may be seeking entrance to
10 private residences or adjacent grounds. The information provided
11 shall be limited to the record of convictions and any arrest for
12 which the person is released on bail or on his or her own
13 recognizance pending trial.

14 (ii) If the Attorney General supplies the data pursuant to this
15 paragraph, the Attorney General shall furnish a copy of the data
16 to the current or prospective employee to whom the data relates.

17 (iii) Any information obtained from the state summary criminal
18 history is confidential and the receiving public utility or cable
19 corporation shall not disclose its contents, other than for the
20 purpose for which it was acquired. The state summary criminal
21 history information in the possession of the public utility or cable
22 corporation and all copies made from it shall be destroyed not
23 more than 30 days after employment or promotion or transfer is
24 denied or granted, except for those cases where a current or
25 prospective employee is out on bail or on his or her own
26 recognizance pending trial, in which case the state summary
27 criminal history information and all copies shall be destroyed not
28 more than 30 days after the case is resolved.

29 (iv) A violation of this paragraph is a misdemeanor, and shall
30 give the current or prospective employee who is injured by the
31 violation a cause of action against the public utility or cable
32 corporation to recover damages proximately caused by the
33 violations. Any public utility's or cable corporation's request for
34 state summary criminal history information for purposes of
35 employing current or prospective employees who may be seeking
36 entrance to private residences or adjacent grounds in the course
37 of their employment shall be deemed a "compelling need" as
38 required to be shown in this subdivision.

39 (v) Nothing in this section shall be construed as imposing any
40 duty upon public utilities or cable corporations to request state

1 summary criminal history information on any current or prospective
2 employees.

3 (B) For purposes of this paragraph, “cable corporation” means
4 any corporation or firm that transmits or provides television,
5 computer, or telephone services by cable, digital, fiber optic,
6 satellite, or comparable technology to subscribers for a fee.

7 (C) Requests for federal level criminal history information
8 received by the Department of Justice from entities authorized
9 pursuant to subparagraph (A) shall be forwarded to the Federal
10 Bureau of Investigation by the Department of Justice. Federal level
11 criminal history information received or compiled by the
12 Department of Justice may then be disseminated to the entities
13 referenced in subparagraph (A), as authorized by law.

14 (D) (i) Authority for a cable corporation to request state or
15 federal level criminal history information under this paragraph
16 shall commence July 1, 2005.

17 (ii) Authority for a public utility to request federal level criminal
18 history information under this paragraph shall commence July 1,
19 2005.

20 (11) To any campus of the California State University or the
21 University of California, or any four year college or university
22 accredited by a regional accreditation organization approved by
23 the United States Department of Education, if needed in
24 conjunction with an application for admission by a convicted felon
25 to any special education program for convicted felons, including,
26 but not limited to, university alternatives and halfway houses. Only
27 conviction information shall be furnished. The college or university
28 may require the convicted felon to be fingerprinted, and any inquiry
29 to the department under this section shall include the convicted
30 felon’s fingerprints and any other information specified by the
31 department.

32 (12) To any foreign government, if requested by the individual
33 who is the subject of the record requested, if needed in conjunction
34 with the individual’s application to adopt a minor child who is a
35 citizen of that foreign nation. Requests for information pursuant
36 to this paragraph shall be in accordance with the process described
37 in Sections 11122 to 11124, inclusive. The response shall be
38 provided to the foreign government or its designee and to the
39 individual who requested the information.

1 (d) Whenever an authorized request for state summary criminal
2 history information pertains to a person whose fingerprints are on
3 file with the Department of Justice and the department has no
4 criminal history of that person, and the information is to be used
5 for employment, licensing, or certification purposes, the fingerprint
6 card accompanying the request for information, if any, may be
7 stamped “no criminal record” and returned to the person or entity
8 making the request.

9 (e) Whenever state summary criminal history information is
10 furnished as the result of an application and is to be used for
11 employment, licensing, or certification purposes, the Department
12 of Justice may charge the person or entity making the request a
13 fee that it determines to be sufficient to reimburse the department
14 for the cost of furnishing the information. In addition, the
15 Department of Justice may add a surcharge to the fee to fund
16 maintenance and improvements to the systems from which the
17 information is obtained. Notwithstanding any other law, any person
18 or entity required to pay a fee to the department for information
19 received under this section may charge the applicant a fee sufficient
20 to reimburse the person or entity for this expense. All moneys
21 received by the department pursuant to this section, Sections
22 11105.3 and 26190, and former Section 13588 of the Education
23 Code shall be deposited in a special account in the General Fund
24 to be available for expenditure by the department to offset costs
25 incurred pursuant to those sections and for maintenance and
26 improvements to the systems from which the information is
27 obtained upon appropriation by the Legislature.

28 (f) Whenever there is a conflict, the processing of criminal
29 fingerprints and fingerprints of applicants for security guard or
30 alarm agent registrations or firearms qualification permits
31 submitted pursuant to Section 7583.9, 7583.23, 7596.3, or 7598.4
32 of the Business and Professions Code shall take priority over the
33 processing of other applicant fingerprints.

34 (g) It is not a violation of this section to disseminate statistical
35 or research information obtained from a record, provided that the
36 identity of the subject of the record is not disclosed.

37 (h) It is not a violation of this section to include information
38 obtained from a record in (1) a transcript or record of a judicial or
39 administrative proceeding or (2) any other public record if the

1 inclusion of the information in the public record is authorized by
2 a court, statute, or decisional law.

3 (i) Notwithstanding any other law, the Department of Justice
4 or any state or local law enforcement agency may require the
5 submission of fingerprints for the purpose of conducting summary
6 criminal history information checks that are authorized by law.

7 (j) The state summary criminal history information shall include
8 any finding of mental incompetence pursuant to Chapter 6
9 (commencing with Section 1367) of Title 10 of Part 2 arising out
10 of a complaint charging a felony offense specified in Section 290.

11 (k) (1) This subdivision shall apply whenever state or federal
12 summary criminal history information is furnished by the
13 Department of Justice as the result of an application by an
14 authorized agency or organization and the information is to be
15 used for peace officer employment or certification purposes. As
16 used in this subdivision, a peace officer is defined in Chapter 4.5
17 (commencing with Section 830) of Title 3 of Part 2.

18 (2) Notwithstanding any other provision of law, whenever state
19 summary criminal history information is initially furnished
20 pursuant to paragraph (1), the Department of Justice shall
21 disseminate the following information:

22 (A) Every conviction rendered against the applicant.

23 (B) Every arrest for an offense for which the applicant is
24 presently awaiting trial, whether the applicant is incarcerated or
25 has been released on bail or on his or her own recognizance
26 pending trial.

27 (C) Every arrest or detention, except for an arrest or detention
28 resulting in an exoneration, provided, however, that where the
29 records of the Department of Justice do not contain a disposition
30 for the arrest, the Department of Justice first makes a genuine effort
31 to determine the disposition of the arrest.

32 (D) Every successful diversion.

33 (E) Every date and agency name associated with all retained
34 peace officer or nonsworn law enforcement agency employee
35 preemployment criminal offender record information search
36 requests.

37 (l) (1) This subdivision shall apply whenever state or federal
38 summary criminal history information is furnished by the
39 Department of Justice as the result of an application by a criminal
40 justice agency or organization as defined in Section 13101, and

1 the information is to be used for criminal justice employment,
2 licensing, or certification purposes.

3 (2) Notwithstanding any other provision of law, whenever state
4 summary criminal history information is initially furnished
5 pursuant to paragraph (1), the Department of Justice shall
6 disseminate the following information:

7 (A) Every conviction rendered against the applicant.

8 (B) Every arrest for an offense for which the applicant is
9 presently awaiting trial, whether the applicant is incarcerated or
10 has been released on bail or on his or her own recognizance
11 pending trial.

12 (C) Every arrest for an offense for which the records of the
13 Department of Justice do not contain a disposition or did not result
14 in a conviction, provided that the Department of Justice first makes
15 a genuine effort to determine the disposition of the arrest. However,
16 information concerning an arrest shall not be disclosed if the
17 records of the Department of Justice indicate or if the genuine
18 effort reveals that the subject was exonerated, successfully
19 completed a diversion or deferred entry of judgment program, or
20 the arrest was deemed a detention.

21 (D) Every date and agency name associated with all retained
22 peace officer or nonsworn law enforcement agency employee
23 preemployment criminal offender record information search
24 requests.

25 (m) (1) This subdivision shall apply whenever state or federal
26 summary criminal history information is furnished by the
27 Department of Justice as the result of an application by an
28 authorized agency or organization pursuant to Section 1522,
29 1568.09, 1569.17, or 1596.871 of the Health and Safety Code, or
30 any statute that incorporates the criteria of any of those sections
31 or this subdivision by reference, and the information is to be used
32 for employment, licensing, or certification purposes.

33 (2) Notwithstanding any other provision of law, whenever state
34 summary criminal history information is initially furnished
35 pursuant to paragraph (1), the Department of Justice shall
36 disseminate the following information:

37 (A) Every conviction of an offense rendered against the
38 applicant.

39 (B) Every arrest for an offense for which the applicant is
40 presently awaiting trial, whether the applicant is incarcerated or

1 has been released on bail or on his or her own recognizance
2 pending trial.

3 (C) Every arrest for an offense for which the Department of
4 Social Services is required by paragraph (1) of subdivision (a) of
5 Section 1522 of the Health and Safety Code to determine if an
6 applicant has been arrested. However, if the records of the
7 Department of Justice do not contain a disposition for an arrest,
8 the Department of Justice shall first make a genuine effort to
9 determine the disposition of the arrest.

10 (3) Notwithstanding the requirements of the sections referenced
11 in paragraph (1) of this subdivision, the Department of Justice
12 shall not disseminate information about an arrest subsequently
13 deemed a detention or an arrest that resulted in either the successful
14 completion of a diversion program or exoneration.

15 (n) (1) This subdivision shall apply whenever state or federal
16 summary criminal history information, to be used for employment,
17 licensing, or certification purposes, is furnished by the Department
18 of Justice as the result of an application by an authorized agency,
19 organization, or individual pursuant to any of the following:

20 (A) Paragraph (9) of subdivision (c), when the information is
21 to be used by a cable corporation.

22 (B) Section 11105.3 or 11105.4.

23 (C) Section 15660 of the Welfare and Institutions Code.

24 (D) Any statute that incorporates the criteria of any of the
25 statutory provisions listed in subparagraph (A), (B), or (C), or of
26 this subdivision, by reference.

27 (2) With the exception of applications submitted by
28 transportation companies authorized pursuant to Section 11105.3,
29 and notwithstanding any other provision of law, whenever state
30 summary criminal history information is initially furnished
31 pursuant to paragraph (1), the Department of Justice shall
32 disseminate the following information:

33 (A) Every conviction rendered against the applicant for a
34 violation or attempted violation of any offense specified in
35 subdivision (a) of Section 15660 of the Welfare and Institutions
36 Code. However, with the exception of those offenses for which
37 registration is required pursuant to Section 290, the Department
38 of Justice shall not disseminate information pursuant to this
39 subdivision unless the conviction occurred within 10 years of the
40 date of the agency's request for information or the conviction is

1 over 10 years old but the subject of the request was incarcerated
2 within 10 years of the agency's request for information.

3 (B) Every arrest for a violation or attempted violation of an
4 offense specified in subdivision (a) of Section 15660 of the Welfare
5 and Institutions Code for which the applicant is presently awaiting
6 trial, whether the applicant is incarcerated or has been released on
7 bail or on his or her own recognizance pending trial.

8 (o) (1) This subdivision shall apply whenever state or federal
9 summary criminal history information is furnished by the
10 Department of Justice as the result of an application by an
11 authorized agency or organization pursuant to Section 379 or ~~550~~
12 ~~1300~~ of the Financial Code, or any statute that incorporates the
13 criteria of either of those sections or this subdivision by reference,
14 and the information is to be used for employment, licensing, or
15 certification purposes.

16 (2) Notwithstanding any other provision of law, whenever state
17 summary criminal history information is initially furnished
18 pursuant to paragraph (1), the Department of Justice shall
19 disseminate the following information:

20 (A) Every conviction rendered against the applicant for a
21 violation or attempted violation of any offense specified in Section
22 ~~550~~ ~~1300~~ of the Financial Code.

23 (B) Every arrest for a violation or attempted violation of an
24 offense specified in Section ~~550~~ ~~1300~~ of the Financial Code for
25 which the applicant is presently awaiting trial, whether the
26 applicant is incarcerated or has been released on bail or on his or
27 her own recognizance pending trial.

28 (p) (1) This subdivision shall apply whenever state or federal
29 criminal history information is furnished by the Department of
30 Justice as the result of an application by an agency, organization,
31 or individual not defined in subdivision (k), (l), (m), (n), or (o), or
32 by a transportation company authorized pursuant to Section
33 11105.3, or any statute that incorporates the criteria of that section
34 or this subdivision by reference, and the information is to be used
35 for employment, licensing, or certification purposes.

36 (2) Notwithstanding any other provisions of law, whenever state
37 summary criminal history information is initially furnished
38 pursuant to paragraph (1), the Department of Justice shall
39 disseminate the following information:

40 (A) Every conviction rendered against the applicant.

(B) Every arrest for an offense for which the applicant is presently awaiting trial, whether the applicant is incarcerated or has been released on bail or on his or her own recognizance pending trial.

(q) All agencies, organizations, or individuals defined in subdivisions (k), (l), (m), (n), (o), and (p) may contract with the Department of Justice for subsequent notification pursuant to Section 11105.2. This subdivision shall not supersede sections that mandate an agency, organization, or individual to contract with the Department of Justice for subsequent notification pursuant to Section 11105.2.

(r) Nothing in this section shall be construed to mean that the Department of Justice shall cease compliance with any other statutory notification requirements.

(s) The provisions of Section 50.12 of Title 28 of the Code of Federal Regulations are to be followed in processing federal criminal history information.

(t) Whenever state or federal summary criminal history information is furnished by the Department of Justice as the result of an application by an authorized agency, organization, or individual defined in subdivisions (k) to (p), inclusive, and the information is to be used for employment, licensing, or certification purposes, the authorized agency, organization, or individual shall expeditiously furnish a copy of the information to the person to whom the information relates if the information is a basis for an adverse employment, licensing, or certification decision. When furnished other than in person, the copy shall be delivered to the last contact information provided by the applicant.

SEC. 2. Section 13300 of the Penal Code is amended to read:

13300. (a) As used in this section:

(1) “Local summary criminal history information” means the master record of information compiled by any local criminal justice agency pursuant to Chapter 2 (commencing with Section 13100) of Title 3 of Part 4 pertaining to the identification and criminal history of any person, such as name, date of birth, physical description, dates of arrests, arresting agencies and booking numbers, charges, dispositions, and similar data about the person.

(2) “Local summary criminal history information” does not refer to records and data compiled by criminal justice agencies other than that local agency, nor does it refer to records of

1 complaints to or investigations conducted by, or records of
2 intelligence information or security procedures of, the local agency.

3 (3) "Local agency" means a local criminal justice agency.

4 (b) A local agency shall furnish local summary criminal history
5 information to any of the following, when needed in the course of
6 their duties, provided that when information is furnished to assist
7 an agency, officer, or official of state or local government, a public
8 utility, or any entity, in fulfilling employment, certification, or
9 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
10 432.7 of the Labor Code shall apply:

11 (1) The courts of the state.

12 (2) Peace officers of the state, as defined in Section 830.1,
13 subdivisions (a) and (d) of Section 830.2, subdivisions (a), (b),
14 and (j) of Section 830.3, and subdivisions (a), (b), and (c) of
15 Section 830.5.

16 (3) District attorneys of the state.

17 (4) Prosecuting city attorneys of any city within the state.

18 (5) City attorneys pursuing civil gang injunctions pursuant to
19 Section 186.22a, or drug abatement actions pursuant to Section
20 3479 or 3480 of the Civil Code, or Section 11571 of the Health
21 and Safety Code.

22 (6) Probation officers of the state.

23 (7) Parole officers of the state.

24 (8) A public defender or attorney of record when representing
25 a person in proceedings upon a petition for a certificate of
26 rehabilitation and pardon pursuant to Section 4852.08.

27 (9) A public defender or attorney of record when representing
28 a person in a criminal case, or a parole, mandatory supervision, or
29 postrelease community supervision revocation or revocation
30 extension hearing, and when authorized access by statutory or
31 decisional law.

32 (10) Any agency, officer, or official of the state when the local
33 summary criminal history information is required to implement a
34 statute, regulation, or ordinance that expressly refers to specific
35 criminal conduct applicable to the subject person of the local
36 summary criminal history information, and contains requirements
37 or exclusions, or both, expressly based upon the specified criminal
38 conduct.

39 (11) Any city, county, city and county, or district, or any officer
40 or official thereof, when access is needed in order to assist the

1 agency, officer, or official in fulfilling employment, certification,
2 or licensing duties, and when the access is specifically authorized
3 by the city council, board of supervisors, or governing board of
4 the city, county, or district when the local summary criminal history
5 information is required to implement a statute, regulation, or
6 ordinance that expressly refers to specific criminal conduct
7 applicable to the subject person of the local summary criminal
8 history information, and contains requirements or exclusions, or
9 both, expressly based upon the specified criminal conduct.

10 (12) The subject of the local summary criminal history
11 information.

12 (13) Any person or entity when access is expressly authorized
13 by statute when the local summary criminal history information
14 is required to implement a statute, regulation, or ordinance that
15 expressly refers to specific criminal conduct applicable to the
16 subject person of the local summary criminal history information,
17 and contains requirements or exclusions, or both, expressly based
18 upon the specified criminal conduct.

19 (14) Any managing or supervising correctional officer of a
20 county jail or other county correctional facility.

21 (15) Local child support agencies established by Section 17304
22 of the Family Code. When a local child support agency closes a
23 support enforcement case containing summary criminal history
24 information, the agency shall delete or purge from the file and
25 destroy any documents or information concerning or arising from
26 offenses for or of which the parent has been arrested, charged, or
27 convicted, other than for offenses related to the parents having
28 failed to provide support for the minor children, consistent with
29 Section 17531 of the Family Code.

30 (16) County child welfare agency personnel who have been
31 delegated the authority of county probation officers to access state
32 summary criminal information pursuant to Section 272 of the
33 Welfare and Institutions Code for the purposes specified in Section
34 16504.5 of the Welfare and Institutions Code.

35 (17) A humane ~~officer~~ *officer appointed* pursuant to Section
36 14502 of the Corporations ~~Code~~ *Code*, for the purposes of
37 performing his or her duties. A local agency may charge a
38 reasonable fee sufficient to cover the costs of providing information
39 pursuant to this paragraph.

1 (18) *An animal control officer, appointed pursuant to Section*
2 *830.9, for the purposes of performing his or her official duties. A*
3 *local agency may charge a reasonable fee sufficient to cover the*
4 *costs of providing information pursuant to this paragraph.*

5 (c) The local agency may furnish local summary criminal history
6 information, upon a showing of a compelling need, to any of the
7 following, provided that when information is furnished to assist
8 an agency, officer, or official of state or local government, a public
9 utility, or any entity, in fulfilling employment, certification, or
10 licensing duties, Chapter 1321 of the Statutes of 1974 and Section
11 432.7 of the Labor Code shall apply:

12 (1) Any public utility, as defined in Section 216 of the Public
13 Utilities Code, which operates a nuclear energy facility when access
14 is needed to assist in employing persons to work at the facility,
15 provided that, if the local agency supplies the information, it shall
16 furnish a copy of this information to the person to whom the
17 information relates.

18 (2) To a peace officer of the state other than those included in
19 subdivision (b).

20 (3) To a peace officer of another country.

21 (4) To public officers, other than peace officers, of the United
22 States, other states, or possessions or territories of the United
23 States, provided that access to records similar to local summary
24 criminal history information is expressly authorized by a statute
25 of the United States, other states, or possessions or territories of
26 the United States when this information is needed for the
27 performance of their official duties.

28 (5) To any person when disclosure is requested by a probation,
29 parole, or peace officer with the consent of the subject of the local
30 summary criminal history information and for purposes of
31 furthering the rehabilitation of the subject.

32 (6) The courts of the United States, other states, or territories
33 or possessions of the United States.

34 (7) Peace officers of the United States, other states, or territories
35 or possessions of the United States.

36 (8) To any individual who is the subject of the record requested
37 when needed in conjunction with an application to enter the United
38 States or any foreign nation.

39 (9) Any public utility, as defined in Section 216 of the Public
40 Utilities Code, when access is needed to assist in employing

1 persons who will be seeking entrance to private residences in the
2 course of their employment. The information provided shall be
3 limited to the record of convictions and any arrest for which the
4 person is released on bail or on his or her own recognizance
5 pending trial.

6 If the local agency supplies the information pursuant to this
7 paragraph, it shall furnish a copy of the information to the person
8 to whom the information relates.

9 Any information obtained from the local summary criminal
10 history is confidential and the receiving public utility shall not
11 disclose its contents, other than for the purpose for which it was
12 acquired. The local summary criminal history information in the
13 possession of the public utility and all copies made from it shall
14 be destroyed 30 days after employment is denied or granted,
15 including any appeal periods, except for those cases where an
16 employee or applicant is out on bail or on his or her own
17 recognizance pending trial, in which case the state summary
18 criminal history information and all copies shall be destroyed 30
19 days after the case is resolved, including any appeal periods.

20 A violation of any of the provisions of this paragraph is a
21 misdemeanor, and shall give the employee or applicant who is
22 injured by the violation a cause of action against the public utility
23 to recover damages proximately caused by the violation.

24 Nothing in this section shall be construed as imposing any duty
25 upon public utilities to request local summary criminal history
26 information on any current or prospective employee.

27 Seeking entrance to private residences in the course of
28 employment shall be deemed a “compelling need” as required to
29 be shown in this subdivision.

30 (10) Any city, county, city and county, or district, or any officer
31 or official thereof, if a written request is made to a local law
32 enforcement agency and the information is needed to assist in the
33 screening of a prospective concessionaire, and any affiliate or
34 associate thereof, as these terms are defined in subdivision (k) of
35 Section 432.7 of the Labor Code, for the purposes of consenting
36 to, or approving of, the prospective concessionaire’s application
37 for, or acquisition of, any beneficial interest in a concession, lease,
38 or other property interest.

39 Any local government’s request for local summary criminal
40 history information for purposes of screening a prospective

1 concessionaire and their affiliates or associates before approving
2 or denying an application for, or acquisition of, any beneficial
3 interest in a concession, lease, or other property interest is deemed
4 a “compelling need” as required by this subdivision. However,
5 only local summary criminal history information pertaining to
6 criminal convictions may be obtained pursuant to this paragraph.

7 Any information obtained from the local summary criminal
8 history is confidential and the receiving local government shall
9 not disclose its contents, other than for the purpose for which it
10 was acquired. The local summary criminal history information in
11 the possession of the local government and all copies made from
12 it shall be destroyed not more than 30 days after the local
13 government’s final decision to grant or deny consent to, or approval
14 of, the prospective concessionaire’s application for, or acquisition
15 of, a beneficial interest in a concession, lease, or other property
16 interest. Nothing in this section shall be construed as imposing
17 any duty upon a local government, or any officer or official thereof,
18 to request local summary criminal history information on any
19 current or prospective concessionaire or their affiliates or
20 associates.

21 (11) A public agency described in subdivision (b) of Section
22 15975 of the Government Code, for the purpose of oversight and
23 enforcement policies with respect to its contracted providers.

24 (d) Whenever an authorized request for local summary criminal
25 history information pertains to a person whose fingerprints are on
26 file with the local agency and the local agency has no criminal
27 history of that person, and the information is to be used for
28 employment, licensing, or certification purposes, the fingerprint
29 card accompanying the request for information, if any, may be
30 stamped “no criminal record” and returned to the person or entity
31 making the request.

32 (e) A local agency taking fingerprints of a person who is an
33 applicant for licensing, employment, or certification may charge
34 a fee to cover the cost of taking the fingerprints and processing
35 the required documents.

36 (f) Whenever local summary criminal history information
37 furnished pursuant to this section is to be used for employment,
38 licensing, or certification purposes, the local agency shall charge
39 the person or entity making the request a fee which it determines
40 to be sufficient to reimburse the local agency for the cost of

1 furnishing the information, provided that no fee shall be charged
2 to any public law enforcement agency for local summary criminal
3 history information furnished to assist it in employing, licensing,
4 or certifying a person who is applying for employment with the
5 agency as a peace officer or criminal investigator. Any state agency
6 required to pay a fee to the local agency for information received
7 under this section may charge the applicant a fee sufficient to
8 reimburse the agency for the expense.

9 (g) Whenever there is a conflict, the processing of criminal
10 fingerprints shall take priority over the processing of applicant
11 fingerprints.

12 (h) It is not a violation of this article to disseminate statistical
13 or research information obtained from a record, provided that the
14 identity of the subject of the record is not disclosed.

15 (i) It is not a violation of this article to include information
16 obtained from a record in (1) a transcript or record of a judicial or
17 administrative proceeding or (2) any other public record when the
18 inclusion of the information in the public record is authorized by
19 a court, statute, or decisional law.

20 (j) Notwithstanding any other law, a public prosecutor may, in
21 response to a written request made pursuant to Section 6253 of
22 the Government Code, provide information from a local summary
23 criminal history, if release of the information would enhance public
24 safety, the interest of justice, or the public's understanding of the
25 justice system and the person making the request declares that the
26 request is made for a scholarly or journalistic purpose. If a person
27 in a declaration required by this subdivision willfully states as true
28 any material fact that he or she knows to be false, he or she shall
29 be subject to a civil penalty not exceeding ten thousand dollars
30 (\$10,000). The requestor shall be informed in writing of this
31 penalty. An action to impose a civil penalty under this subdivision
32 may be brought by any public prosecutor and shall be enforced as
33 a civil judgment.

34 (k) Notwithstanding any other law, the Department of Justice
35 or any state or local law enforcement agency may require the
36 submission of fingerprints for the purpose of conducting summary
37 criminal history information record checks which are authorized
38 by law.

39 (l) Any local criminal justice agency may release, within five
40 years of the arrest, information concerning an arrest or detention

1 of a peace officer or applicant for a position as a peace officer, as
2 defined in Section 830, which did not result in conviction, and for
3 which the person did not complete a postarrest diversion program
4 or a deferred entry of judgment program, to a government agency
5 employer of that peace officer or applicant.

6 (m) Any local criminal justice agency may release information
7 concerning an arrest of a peace officer or applicant for a position
8 as a peace officer, as defined in Section 830, which did not result
9 in conviction but for which the person completed a postarrest
10 diversion program or a deferred entry of judgment program, or
11 information concerning a referral to and participation in any
12 postarrest diversion program or a deferred entry of judgment
13 program to a government agency employer of that peace officer
14 or applicant.

15 (n) Notwithstanding subdivision (l) or (m), a local criminal
16 justice agency shall not release information under the following
17 circumstances:

18 (1) Information concerning an arrest for which diversion or a
19 deferred entry of judgment program has been ordered without
20 attempting to determine whether diversion or a deferred entry of
21 judgment program has been successfully completed.

22 (2) Information concerning an arrest or detention followed by
23 a dismissal or release without attempting to determine whether the
24 individual was exonerated.

25 (3) Information concerning an arrest without a disposition
26 without attempting to determine whether diversion has been
27 successfully completed or the individual was exonerated.

28 SEC. 3. No reimbursement is required by this act pursuant to
29 Section 6 of Article XIII B of the California Constitution because
30 a local agency or school district has the authority to levy service
31 charges, fees, or assessments sufficient to pay for the program or
32 level of service mandated by this act, within the meaning of Section
33 17556 of the Government Code.